ATYPICAL WORKING

How six very different organisations manage atypical working

Case studies
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Case studies

Atypical working: how six very different organisations manage atypical working

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Introduction

The issue of atypical working polarises opinions, with some commentators regarding all forms of non-standard employment as exploitation by another name. For instance, the Arch Bishop of Canterbury rather memorably described the gig economy and zero-hours contracts as the ‘reincarnation of an ancient evil’ in a speech to the TUC Congress in 2018.

An assessment of the evidence though suggests that the issue is more complex and nuanced than much of the rhetoric suggests, with the majority of atypical workers making an active choice to work in this way, reporting comparable job satisfaction with permanent employees, and valuing its flexibility and access to employment opportunities.

However, this evidence base also highlights that there is a downside for some people who are working atypically; for example, the CIPD’s research finds that 14% of gig economy workers say they are only working in the gig economy because they can’t find a traditional job with a regular employer, while the ONS data shows that about a quarter of zero-hours contract workers either want a replacement job with more hours or more hours in their current job.

The challenge for employers is to design atypical working arrangements that maximise the benefits to individuals and reduce the incidence of cases where people feel exploited or treated unfairly, while providing the organisation with the flexibility required. The case studies in this report feature a range of organisations that use atypical working arrangements of different types, and the people management and development practices they are using to try and achieve this.

Some of the case study organisations in focus have been in the news as a result of employment tribunal cases over the issue of employment status, illustrating the challenges the courts are facing in deciding where the balance of rights and responsibilities lies between businesses and individuals in the digitally enabled gig economy. It is in organisations’ interests to get this balance right, regardless of legal rulings, or their ability to attract and retain people will suffer and their reputation will be damaged. The case studies in this report are not necessarily all examples of best practice, but of organisations that are open about the challenges they face and how they are responding to address these.

Deliveroo: a popular rider proposition based on flexibility, earnings and security

Background

Founded in 2013, Deliveroo currently operates in over 150 towns and cities in the UK, as well as across the world. Orders are placed through its app or website and transported from restaurants to customers by bike or motorcycle couriers. A survey of Deliveroo riders by Public First in September 2018 found that over 90% of respondents were male, three-quarters were aged between 18 and 34, and more than a third worked in London.

In November 2017, the Central Arbitration Committee dismissed a challenge by the Independent Workers Union of Great Britain (IWGB) trade union seeking recognition on behalf of a small group of riders in north London, and ruled that Deliveroo riders are self-employed.
Deliveroo's rider proposition
Deliveroo’s three-fold ‘rider proposition’ to its 25,000 UK riders focuses on:

- flexibility
- earnings
- security.

Riders work an average of 15 hours a week with the company, but there’s no obligation on them to accept work. They’re free to work when, where and as much or as little as they like, while they can also take as much time out as they like (for example, to study), coming back if they wish. There’s no penalty for refusing the offer of a delivery.

Few riders make delivery a full-time job; many are students, or parents who are responsible for childcare. The flexibility offered by Deliveroo means they can fit work around their other commitments.

Average earnings for riders are £10 per hour, which compares favourably to the National Living Wage (£7.83 in March 2019). This is potentially beneficial for young riders (18+ years) in particular, who’d only be covered by the lower National Minimum Wage rates if they were in alternative work as employees.

The business is growing, and up to 10,000 people apply to ride with the company each week, suggesting that earnings are competitive. Riders can supplement their earnings by riding for other companies like Uber Eats.

In recognition that working on the road means that riders may run the risk of traffic accidents, Deliveroo offers riders third-party accident and injury insurance free of charge. This provides cover for the costs of treatment as well as earnings protection.

Listening to riders
Deliveroo wants its rider app to be intuitive, so that riders with differing degrees of technological awareness have no problems using it. On a day-to-day basis, delivery is managed through the app; if anything goes wrong, a rider support team of up to 50 people is available by phone while the business is open.

Deliveroo regards its riders as a community. Riders have access to a dedicated part of its website, which offers information about how the app works, and any technical or product changes under way. The rider engagement team also hosts regular events at cafes in cities to engage with riders. These provide an open forum where riders can meet their peers and discuss their concerns, such as traffic issues. Some riders are keen to get involved, others less so. There are also targeted sessions on road safety; on one occasion, the company held an event at the Olympic Park velodrome in London.

The company co-founder and CEO, Will Shu, hosts regular lunches with riders across the UK. He was Deliveroo’s first rider and still makes occasional deliveries; indeed, all Deliveroo employees are encouraged to make deliveries so that they have a solid understanding of what it means to be a rider. This emphasises that riders are the heart of the business, and the company believes that its riders appreciate this. Deliveroo has stated that it cares for its riders, and has a strong vested interest in the way they feel about working for Deliveroo. There are also awards for riders who have provided great customer service.

At the end of each delivery, riders can provide feedback via the app, whether negative or positive, on any issue. They’re also encouraged to suggest changes to improve the app. For example, there used to be a flat fee for deliveries, but riders felt this was
not necessarily fair, since some deliveries took longer than others. This led to the introduction of a dynamic fee based on distance, where riders pay higher fees for longer distances. Similarly, riders used to be paid on a two-weekly basis but, in light of rider feedback, a new ‘cash-out’ feature is being introduced, allowing riders to get paid at the click of a button.

**Rider attitudes**

Deliveroo monitors rider attitudes monthly through a general question about satisfaction. The company also runs a survey each quarter to gauge their wider attitudes, asking what riders value and how the company can improve.

Key findings of the rider survey by Public First include:

- Flexibility was seen as the most important benefit of riding for Deliveroo, as it allowed riders to get more from other aspects of their lives.
- Most participants said they could earn significantly more working with Deliveroo than they could from other jobs – such as working in supermarkets, on factory floors, or directly for takeaway restaurants.
- Riders did not necessarily view riding as a long-term prospect, but felt it suited them for now.
- Just under two-thirds of riders suggested that riding with Deliveroo would help their future employability.
- The vast majority of riders were averse to the idea of returning to traditional employment – only 8% said they’d look for a more traditional full- or part-time job if they could no longer work as a Deliveroo rider.
- However, riders felt that the quality of communication with the company was patchy, and that more could be done to help riders with their future employability.

**Top tips for employers drawn from the Deliveroo case study:**

- Give individuals as much choice as possible over the number of hours they work.
- Don’t make it a requirement for zero-hours workers to accept work, or penalise them for refusing an offer.
- Establish representative forums for atypical workers as a way of ensuring they have an effective voice and can communicate their ideas, views and concerns to managers.
- Ensure that all staff, both permanent and atypical, know how to feed back comments and suggestions, either face-to-face or online.

For more detail, read our dedicated guide to atypical working: cipd.co.uk/atypical-working-guide
Hermes: a 40-year-old employment model rooted in self-employment

Background
Hermes, Britain’s second-biggest parcel company, delivers for John Lewis and other major retailers, and has 15,000 self-employed couriers who deliver parcels using their own vehicles.

Hermes believes it’s important for couriers to have the flexibility to provide services at times which suit them. An internal survey conducted by Hermes in May 2018 showed that four out of five couriers preferred self-employment to ‘worker’ status. Hugo Martin (Director of Legal and Public Affairs) underlines that this self-employment model has been in place for over 40 years and has advantages for both Hermes and couriers:

‘Hermes self-employed model means people can access flexible work that attracts good rates of pay and can fit around other life commitments. The model also helps us achieve the highest standards of “first-time” delivery.’

Couriers’ attitudes to their job
In 2017 the company ran focus groups for couriers, facilitated by a third party. One of the questions tested was whether they felt they were treated respectfully by – and received support from – their field manager. These focus groups and surveys provided insights into couriers’ levels of satisfaction:

• Those who chose to work with Hermes for the flexible hours were particularly satisfied with the work.
• Where they felt they were supported and received fair pay, they in turn felt respected, wished to continue providing services to Hermes, and trusted the company.

Hermes subsequently put in place an action plan to address the key concerns raised by couriers, which included investing £18 million in improvements to the hand-held terminal technology used to scan parcels, putting measures in place to prevent the late arrival of lorries, and communicating any late arrivals to couriers.

A survey in May 2018 found that a majority of couriers (59%) said that their current lifestyle would not allow them to undertake fixed shifts. Of those who said they’d be unable to do fixed shifts:

• 43% said the main reason was childcare requirements
• 16% said caring for relatives
• 13% that they were retired
• 4% that they were disabled
• 2% that they were studying
• 22% for other reasons.

Hermes’ payment model
Payments are modelled on a courier’s individual round, including how many parcels are to be delivered, what fluctuations in parcel volumes may be encountered, and the appropriate rate of pay based on market conditions. The company then works out the individual’s earnings potential. The aim is to deliver £9.10 per hour minimum, net of expenses. If there’s an issue with the basis for this calculation, the manager may ‘ride along’ with the courier.
to check any local variations in geography. Martin says that managers negotiate within a range, and don’t simply say, ‘That’s your rate.’

Couriers are allocated a fixed round (or multiple rounds) in their local area. HR Director Jill Maples says, ‘They know what their round is and what service they will provide for us, and they develop links to their local community.’

**Communication and support for managers**

The majority of cases of courier dissatisfaction stemmed from situations where field managers didn’t respond well to couriers who:

- stated that they weren’t able to provide service on a particular day
- terminated services in a way that was viewed as being disrespectful.

The company has therefore developed standard operating procedures for field managers to provide guidance on the kind of behaviours expected where, for example, delivery rounds have to be covered at short notice, or improvement notices issued.

An online forum, the Lifestyle Couriers Forum, is open to all couriers to discuss any issues of concern. A number of couriers have made clear that this is a particularly valuable mechanism to discuss topics between themselves – as well as with Hermes – before they become grievances. Several changes have also been made to the hand-held terminal technology in response to concerns voiced and suggestions provided on this forum.

Hermes believes that communication and relationships are key to engaging and motivating couriers. The written contract couriers sign up to is transparent and easy to understand; an ‘invoice’ will say what the courier’s earned and show how it was calculated. Field managers interact daily with couriers, and a quarterly update booklet keeps them informed about new clients, as well as where the firm’s going as a business. There is also a ‘field school’ – or learning platform – for managers, which focuses on managing and negotiating with self-employed people.

**Code of conduct**

In 2016, Hermes introduced a code of conduct for its employees and self-employed couriers. The code was communicated widely to employees, self-employed couriers and other suppliers, and attached to all relevant contracts. Hermes also ensures that a copy is displayed publicly at all depots and sub-depots.

There is also an internal complaints panel, independent of the operational side of the business, where couriers can raise complaints when it comes to a breach (or suspected breach) of the code. This can be done either through an independent whistleblower hotline (run by an external third party and available 24/7, 365 days a year) or through an internal escalation process. The company has also appointed business and human rights advisor Anna Triponel as an external independent ombudsperson to whom complaints of a serious alleged breach or potential breach of human rights are referred.

The company places considerable emphasis on measures to embed the code in the business and ensure that working behaviours throughout the company are consistent with it. In early 2018, the board approved a 2018/19 Human Rights Strategy, which was developed with input from various field managers and couriers. The key pillars of the strategy are:

- strengthening the tone from the top
- reviewing the company’s business targets
- strengthening engagement
- engaging in public communication.

Compliance with the code is audited across the company’s depot and sub-depot network. Hermes
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Interviews with service couriers are conducted on a confidential basis with no Hermes management present, and auditors can report any issues or concerns raised.

In February 2019 Hermes reached an agreement with the GMB trade union to offer couriers ‘self-employed plus’ status, with paid holiday and a guaranteed minimum earnings potential at least equal to the National Living Wage, as well as a strong collective voice through the GMB. For Hermes, a key part of this agreement is that the company will continue to have individual negotiations with couriers on parcel rates, while the GMB has not been given collective bargaining rights.

**Tips for employers drawn from the Hermes case study:**

- Ensure that field managers perform many of the functions typically undertaken by line managers in relation to employees.
- Establish and maintain trust-based relationships; for example, by clarifying managers’ and workers’ expectations of behaviour.
- Communicate policies to field managers and see that they’re understood and applied.
- Ensure that line managers are given training or guidance on how to manage atypical workers in line with what’s set out in the contract.
- Set out in these contracts the notice required by either the organisation or individual if they’re unable to meet their contracted commitments.
- Recognise that engagement is key to managing any workforce.
- Establish representative forums for atypical workers to ensure that they can communicate their ideas, views and concerns to managers.
- Promote regular, direct communication between managers and atypical workers through manager training and/or guidance.

For more detail, read our dedicated guide to atypical working: cipd.co.uk/atypical-working-guide

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**4 McDonald’s: a consultative approach to changing employment contracts**

**Background**

In 2018, McDonald’s offered 115,000 UK workers on zero-hours contracts the option of moving to fixed contracts, with a minimum number of guaranteed hours every week. After trials in 50 stores, a national roll-out of fixed contracts across all McDonald’s restaurants took place in September. Staff have been offered contracts in line with the average hours per week they work, including contracts of between 4 and 40 hours a week.

**McDonald’s employees request fixed contracts**

McDonald’s held an extensive consultation process with staff about the new contract in the form of drop-in sessions. The main purpose was to engage with employees and do some ‘myth-busting’, so that people could understand what was on offer. Nearly 30 workshops
were held between July and December 2017, attended by both crew and managers; following the workshops, individual crew members agreed their new working hours.

McDonald’s introduced the new contract not due to external pressure, but because crew members asked for it. Staff in its restaurants complained that they had difficulty getting loans, mortgages and mobile phone contracts because they were not guaranteed employment each week. Although it’s still too early to say precisely what impact the new contract has had, the company believes that its reputation as an employer will also help with recruitment.

McDonald’s primary objective is to give their crew choice and flexibility. This is particularly the case when it comes to offering them either a fixed or flexible-hours contract. But it’s not a case of simply shifting people onto a fixed-hours contract, says McDonald’s. The individual can choose what works for them and, ultimately, what’s in their best interests. HR Operations Manager Ruth Walsh says, ‘The vast majority of our employees are happy to be on flexible contracts, but some have told us that more fixed hours would help them get better access to some financial products.’

There is no difference between the pay and conditions of people on flexible hours and those on fixed-hours contracts.

**Employee responses to the new contract**

The majority of employees have chosen to stay on flexible-hours contracts, despite the offer of minimum hours; the current number who’ve opted for fixed contracts is 11,000 (9% of the workforce). Walsh says: ‘There is a wide range of take-up between restaurants, from 2% to 60%. The most popular number of hours is 16, and this is mainly female, but college students might prefer to do just one shift a week. A lot of the uptake is from managers.’

Some employees want to go on guaranteed minimum hours; for example, to get a mortgage. McDonald’s expects to see the proportion of employees on fixed hours increase steadily in the coming years, as new recruits are offered the choice of fixed or flexible contracts. The shift in the employment offer has had little impact on the pattern of people’s working lives, but has allowed them choice in the predictability of their future hours and earnings. The company’s seen an increase in levels of employee and customer satisfaction following the offer.

Crew members can choose to go for more or less than the ‘standard’ fixed terms on offer. The biggest take-up among those opting for the new contract is for 30 hours. Younger employees are more likely to be happy with variable hours than older workers, and women are more likely to take it up than men.

**Sophisticated scheduling system**

McDonald’s operates a sophisticated scheduling system. Forecast sales projections help to identify staffing gaps, and the company recruits to match the requirement. They then offer a number of guaranteed hours to employees to enable the company to meet anticipated peaks and troughs of customer demand. The system is accessible to employees, who can log in at home or on their mobile phone to see what hours they’ve worked or advertise their desire to swap shifts. Employees can change hours if managers agree but, provided a specific friends-and-family contract is pre-agreed with managers, swapping shifts does not require a manager’s sign-off. This is a big attraction when hiring new staff, since they know they can get a weekend off if they wish. Absenteeism is also down. Walsh says:
‘Crew members put their availability into the system to suit their lifestyle. There is no restriction on the hours they can work, and people can go over the number of hours they have said they want to work. Individuals’ shift patterns are decided at least a week in advance: most restaurants are now fixing them two weeks in advance. If additional shifts are needed subsequently, they are posted so that individual crew members can apply to work more hours, or swap with someone else.’

Communication and other benefits
Staff have six-monthly ‘How is it going?’ chats with their manager, where the company’s ethical values (such as ‘Be you’) can be one of the talking points. In addition, there are staff meetings and listening sessions. Business managers work on the front line (‘walk the floor’), and the majority have worked their way up from the floor.

McDonald’s is committed to giving their people opportunities to build a career within the organisation. According to Walsh:

‘All McDonald’s crew members are on employment contracts, and benefits include pensions and private medical care. Nine out of ten of our business managers started out at McDonald’s restaurants as crew members, and we invest £40 million each year to develop our people. 5,000 people have experienced pay progression or promotion in the last year.’

Tips for employers drawn from the McDonald’s case study:
• Where appropriate, accept requests from atypical workers to regularise hours or move to a permanent contract.
• Use effective work scheduling processes to balance both the organisation’s and individual’s needs.
• Consider how different resourcing options impact on the organisation’s ability to address skills shortages and recruit, motivate and retain people, and any impact on the employer brand and reputation.
• Offer atypical workers comparable pay and conditions with those of other workers.
• Provide individuals with as much choice as possible over the number of hours they work.
• Ensure that atypical workers are eligible for their organisation’s training and development activities.

For more detail, read our dedicated guide to atypical working: cipd.co.uk/atypical-working-guide
5) **Uber: fostering rider voice and representation through UberENGAGE**

**Background**
Uber is a ride-hailing service operating in metropolitan areas worldwide, providing platforms that can be accessed by websites and mobile apps. Following its emergence in the UK in 2012, efforts to influence driver behaviour had largely been transactional rather than attempting to build trust and loyalty. The perception was that partner drivers felt like they had no control over their working environment or treatment, had little insight into the business or connection with their peers, and no effective representation to voice these concerns or challenge the company. In the UK, the company’s seeking to provide voice and representation for individuals working on its platform.

**Voice and representation**
In 2016, Uber developed a new model of the relationship between the company and its partner drivers, aimed at encouraging drivers to share their ideas and have a say in the business. The model aims to allow both parties to work together and to build drivers’ trust in the company. ‘UberENGAGE’ was instituted to support the company’s efforts to grow its relationship with drivers into one based on authentic, effective communication.

Uber set up advisory groups, comprising five experienced local drivers in five pilot cities where the company operates – London, Portsmouth, Brighton, Southampton and Liverpool. Staff meet with their local advisory group on a monthly basis, where driver feedback and ideas are shared and discussed. This gives drivers the chance to tell the company what they think could make the Uber experience better. Uber also communicates with its drivers; for example, through its Weekly Partner Updates, in-app messages and invitations to partner events.

In a bid to champion success and encourage collaboration, the company will get in touch with those drivers who provide feedback through their advisory group about any feedback and resulting changes. Partners don’t need to give their name when submitting feedback – the process can be anonymous to ensure feedback is honest. There is also a National Independent Review Board made up of drivers, members of the Uber leadership team and independent external experts.

Through its 19 Green Light Hub support centres across the country, Uber manages a comprehensive on-boarding and induction process for new drivers. This includes guidance on what to do if a passenger falls asleep, for example, or makes a mess in the vehicle. An online helpline offers 24/7 support for drivers. The company also takes steps to ensure that all its drivers are fully aware of – and comply with – regulatory requirements.

**Encouraging diversity**
To give women more voice, the company has set up a National Women’s Advisory Forum within UberENGAGE. In 2018, the company held a roundtable discussion with women drivers to help them understand why more women did not get involved. The feedback showed that women felt their voices were not being heard and were often ‘shouted over’.
Emma Boulting, an independent member of the Forum who also drives with Uber, says that:

'We want to help women drivers understand what channels they can use if they are unhappy with some aspect of their driver experience. We also need to raise their confidence that the company will take action if they report problems with riders. For example, female drivers can face serious abuse from riders, including touching and sexualised comments. Women need to feel that, if they speak up, they will be believed – even where their account differs from that of the rider.'

The company is seeking to ensure that it has a diverse workforce. It’s actively encouraging D/deaf drivers and supporting them through a partnership with Lingoing, an organisation that aims to improve access for D/deaf people by bringing together commercial organisations and language service providers. The initiative provides self-employment opportunities for D/deaf people; prospective drivers will be provided with on-site interpreters to help with elements of the licensing application process, as well as online assistance throughout their application.

The driver app includes several features that address issues affecting driver safety, including sharing the vehicle’s location, speed limit checks and emergency assistance. Uber also provides a range of insurance coverage free of charge, including sickness, injury and maternity and paternity payments through a partnership with AXA Insurance. This benefits users when they’re on and off the Uber app. Other driver benefits include Money Farm, which gives drivers access to discounted financial products; discounted gym membership; and Future Learn, from which they can choose a bundle of university courses.

**Driver satisfaction**

A study of Uber drivers in London, co-authored by the Oxford Martin Programme on Technology and Employment, found that Uber drivers report higher levels of life satisfaction than other drivers. The authors suggest that this partly reflects their preferences for flexibility and autonomy; drivers that emphasise flexibility as an important motivation to join Uber also report higher levels of subjective well-being. A minority of drivers who report that they’d prefer work as an employee report lower levels of life satisfaction and higher levels of anxiety.

The study also found that three-quarters of Uber drivers have a lower total income than the median London worker. However, as compared with other transportation workers or immigrant workers in London, their earnings hold up well. Driving with Uber, the median driver earns about £11 an hour after subtracting vehicle overheads and Uber’s service fee. But the majority of those surveyed said they valued flexibility over a salary or fixed hours, and the data showed drivers regularly changed their working hours from week to week.

Overall, the findings highlight the importance of non-monetary factors in shaping the welfare of workers in the gig economy.

The majority of drivers surveyed point to autonomy, scheduling flexibility or improved work–life balance as a reason for joining the platform. Uber drivers overwhelmingly come from immigrant backgrounds but have high levels of academic attainment. Tomasz says:

‘I drive with Uber because of the freedom it gives me. You have flexibility so you’re working for yourself, your own boss, you can concentrate on the other things in your life. I came over here 12 years ago and started work as a maintenance manager; I didn’t have any flexibility. With Uber, I can work around my life, not around the company.’
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Employment status
Uber regards its drivers as self-employed and believes that, if drivers were classified as workers, they’d lose some of the flexibility that comes from being their own boss. Following an employment tribunal ruling that two Uber drivers were ‘workers’ within the definition in s.230(3)(b) of the Employment Rights Act 1996 (Aslam v Uber BV (2016)), the company appealed to the EAT and the Court of Appeal. Their arguments were rejected by both the EAT and the Court of Appeal, and the company is appealing to the Supreme Court. In a dissenting judgment in the Court of Appeal, Underhill LJ commented that the issue of ‘how to adapt existing employment law protections to the development of the so-called gig economy, and in particular to the use of service-provision platforms such as Uber, is under active review by the Government at present’.

For the concise version of Aslam v Uber, see the CIPD’s member-only case law on employment status.

Tips for employers drawn from the Uber case study:
• Make sure all staff know how to feed back comments and suggestions, either face-to-face or online.
• Set up representative forums for atypical workers so that they can communicate their ideas, views and concerns to managers.
• Create and preserve trust-based relationships; for example, by clarifying managers’ and workers’ expectations of behaviour.
• Provide an induction programme to ensure that atypical workers are fully aware of regulations, working rules and practices.

For more detail, read our dedicated guide to atypical working: cipd.co.uk/atypical-working-guide

University of Glasgow: extended Workforce Policy successfully reduces zero-hours contracts

Background
There has, for some time, been trade union and political pressure to reform employment relationships in higher education (HE). The Universities and Colleges Union (UCU) continues to be concerned over what they see as the ‘casualisation’ of the workforce, with the University of Glasgow’s HR director even called to appear before the Scottish Select Committee at Westminster, along with her counterpart from the University of Edinburgh, to discuss the ‘abuse’ of zero-hours contracts within the sector.

The university currently employs over 8,000 regular employees on either full-time or part-time contracts. There are also some 3,500 casual workers registered on the payroll. A significant proportion of these casual workers are students, either undergraduates or postgraduates, assisting with undergraduate teaching or demonstrating in laboratories. Where the workforce is inevitably fluid (as in HE), the issue is whether the balance is
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right between permanent and temporary employment. Improved workforce planning is important, but the real challenge at the university is cultural.

A policy-driven approach to reducing zero-hours contracts

In 2014, some 800 employees at the University of Glasgow were on zero-hours contracts. The new deputy HR director, Richard Claughton, was briefed to resolve the issue in consultation with managers and in partnership with the unions. This led to the adoption of an Extended Workforce Policy, which sets out the different contractual arrangements used by the university, and the circumstances in which each is appropriate. The policy recognises the context in which the university operates and incorporates a series of principles to guide the choice of employment contract in individual cases. These principles include the provision of employment contracts whenever appropriate, maximising the number of hours offered, and improving clarity and transparency.

This has resulted in a significant reduction in the use of zero-hours employment. No new contracts have been offered on this basis, and individuals have been actively reviewed and offered contracts with defined hours (regular or irregular) wherever possible. Though some roles might be offered on a genuinely casual worker basis, they’re more likely to be on an employment basis, with a defined number of hours presented on an average, per-week basis.

Offering employment contracts

In addition to concerns from unions and individuals, the level of use of casual worker arrangements also presented the university with management challenges. There was less governance and limited control over the hours worked by casuals, who are paid ad hoc on time sheets. This could result in problems in relation to budgets, employment rights and, in some cases, visa requirements for people from overseas.

Paragraph 2.3 of the university’s Extended Workforce Policy reads:

‘Where there is a sufficiently meaningful and predictable level of regular work over a given period the University will typically offer an employment contract which may be fixed term or permanent/open ended, full or part-time and will provide as much security of employment as possible.’

This is reinforced by section 5, which states that an open-ended contract will be the ‘standard approach to employment’ where there is a reasonable expectation of an ongoing role.

‘If we can create a job, we will make it a job’

The policy statement essentially means that, ‘If we can create a job, we will make it a job.’ The university requires ad hoc work to be done, and some of this is genuinely casual and unpredictable. In these cases, individuals are registered as casual workers, with full right-to-work checks being conducted, and then offered work in a relatively ad hoc and genuinely informal manner.

The new approach has resulted in an increased focus on workforce planning and scheduling of work, with previously casual roles being migrated into small part-time, typically fixed-term employment contracts.

Where the work is relatively predictable, as it is with most graduate teaching assistants and demonstrators, it can be consolidated and made into a part-time job. The employment contract will specify ‘x’ number of hours; a part-time contract for people working irregular hours may be either front-loaded or back-loaded, meaning that they’re typically paid via timesheets to ensure payment on a timely basis.
This has resulted in over 800 such contracts being offered each year – not an insignificant administrative burden. However, there are many benefits, including:

- a genuine mutual commitment to carry out the work
- individuals feeling part of the workforce and on the same terms and conditions
- greatly increased transparency and reporting
- improved planning, leading to ongoing reviews of the workforce
- ever greater movement away from casualisation.

At the time of writing, no employees were being recruited on zero-hours contracts. The approach is to offer new recruits employment contracts – sometimes fixed-term, but always with hours.

However, not all of the 800 employees formerly on zero-hours contracts wanted to move off them. The university has gradually reviewed the position of all these people and offered them fixed hours: for example, one shift per week (though in reality individuals may often do much more). This situation is generally acceptable to the people concerned, as it retains some of the benefits of flexibility on both sides.

**On-going monitoring**

The university has made clear to all employees that, where a fixed-hours contract is not possible, every effort will be made to give the individual early warning of changes to their working pattern. This is important in helping manage individuals’ expectations, and reinforcing their intention to stay, in the absence of any mutual commitment.

The position of the remaining casuals is monitored. If it looks like the number of hours being worked should have triggered an employment contract, management will be asked if it’s possible to create a job for them on an ongoing basis. This can require discussions between HR and local managers. Options may include term-time contracts, average-hours contracts, or setting a minimum and then offering additional work, which may be accepted or turned down.

Some 3,000 casual workers remain on the books and, while the headcount has increased significantly (about 1,000 extra employment contracts are issued each year for people who’d formerly have been taken on as casuals), the overall impact on full-time equivalent (FTE) levels is relatively modest. Initially, such roles were often offered on short fixed-term contracts. More recently, the university started offering longer contracts, sometimes for a number of years (perhaps matching the period the individual will be a student at the university), but also some on an open-ended nature. The expectation is that the majority of these students will wish to leave their roles and seek more substantive employment once they end their studies. This enables the university to meet its commitment to offer such roles to new generations of students as part of its employability agenda.

**Tips for employers drawn from the University of Glasgow case study:**

- Consider the organisation’s business strategy, the requirement to deliver goods/services, the type of flexibility needed, and the extent to which it is needed.
- Set out in the contract the employment status of those engaged on non-standard employment contracts.
- Clarify the rights and responsibilities of both the organisation and any atypical workers to make sure there’s a shared awareness and understanding of the basis of the relationship.
Atypical working: how six very different organisations manage atypical working

- Make use of effective work scheduling processes to balance the organisation’s needs with those of individuals.
- If the work is relatively predictable, consider if casual or temporary work can be consolidated into a full-time or part-time job.
- Regularly review (at least once a year) the working arrangements in practice to ensure that the reality of the employment relationship reflects what’s set out in the contract.
- Don’t make it a requirement for atypical workers to accept work, or penalise them for refusing an offer.

For more detail, read our dedicated guide to atypical working: cipd.co.uk/atypical-working-guide

7 De Montfort University: how a university and agency went above and beyond the call of duty for students

Background
De Montfort University (DMU) has over 3,000 employees, which includes permanent, temporary and hourly-paid employees. The university uses the services of agency workers to cover gaps in resourcing needs or for periods where additional temporary staffing resources are needed. Many of these workers are engaged through DMU’s preferred supplier, Unitemps, though other agencies are used where necessary. Agency workers are employed in a range of jobs across the university at all levels, in both academic and non-academic (e.g. senior IT and finance) roles.

Relations between employer and agency
Started by the University of Warwick in 1997, Unitemps is a university-owned, campus-based recruitment service which operates on a franchise basis at a number of universities. There’s a close relationship between the university and Unitemps, which is managed by an in-house service team at DMU. The agency aims to offer students valuable work experience while ensuring compliance with legislation.

The university has agreed systems and processes with Unitemps to ensure that agency workers are treated in accordance with the Agency Workers Regulations (AWR). The agency is responsible for conducting pre-employment checks, such as eligibility to work in the UK. DMU requires an induction checklist to be completed by the agency and handed to the worker before they start work with the university; this covers a range of subjects, including:

- rates of pay
- working patterns
- holiday entitlement
- parking arrangements
- sick leave
- information on applying for job vacancies at DMU.
Management guidelines
The university publishes guidelines for managers on engaging and managing agency workers on its website. These are supported by checklists and reinforced by briefings for managers. The guidelines have been in place since 2011 and are kept under review to ensure that the messages for managers are clear and up to date. The university is also reviewing its use of agency workers to ensure that the way in which they’re engaged is in accordance with both the guidelines and good employment practice.

The managers’ induction checklist reminds them to ensure that agency workers have an initial induction from their immediate supervisor (covering necessary housekeeping, operational and health and safety matters) either before they commence their duties or as soon as possible thereafter. Managers are also encouraged to ensure that agency workers are given basic minimum and/or statutory training to:

- fulfil legal requirements
- ensure that the agency worker is effective in their role.

For example, it may be necessary to train agency workers on in-house/bespoke IT systems to ensure they’re able to carry out their role with the university effectively.

Requests for leave are managed in the same way as requests made from directly employed staff (managers are expected to try and accommodate the agency worker wherever possible). Agency workers can also be involved in work-related social events in the same way as other staff. Though agency workers are expected to comply with the code of conduct for DMU staff, any concerns or issues that may arise between agency staff and their line manager are regarded as primarily a matter for the agency to resolve.

The guidelines for managers make clear that agency workers should normally only be used to:

- cover periods of employee absence
- assist with staff shortages due to resignations or dismissals while a permanent replacement is being recruited
- work on a particular short-term project or task
- assist during peak periods of demand.

The aim is to ensure that agency staff are not used to fill longer-term vacancies, where a temporary or fixed-term contract might be more appropriate.

If a permanent job becomes available, an agency worker with the necessary skills and experience can apply, with the application being processed in the normal way.

Legal compliance
The university seeks to ensure that agency staff are treated appropriately. This includes complying with – or going beyond – its legal obligations. Although the Agency Workers Regulations (AWR) refers to a qualifying period of 12 weeks, DMU does not apply this qualifying period. This means that agency workers placed with DMU are entitled to the same basic pay and terms and conditions from ‘day one’ of their placement, including access to canteen, library and gym facilities. Though flexible working regulations apply only to employees, the university deals with requests to work flexibly (eg to work from home) on a similarly informal basis as they do requests from employees.

More recently, the university has introduced a workplace pension scheme for Unitemps agency workers to comply with pensions auto-enrolment legislation. Again, the university made the decision to go beyond its minimum compliance obligations and has put in place a higher rate of employer pension contribution (10%) than the minimum contribution specified by the auto-enrolment legislation.

De Montfort University
Agency workers at DMU are not employees of the university. HR Policy and Strategy Manager Rebecca Gott says:

‘DMU is a responsible employer and we want to ensure that all staff have a good experience, including those who are not directly employed by us. Of course, we also need to comply with our legal obligations under the agency workers legislation, but we do go over and above this minimum threshold in some areas, for example, we don’t require a minimum period of service before giving agency workers equal treatment in terms of basic pay and terms and conditions and we apply this from day one of their engagement with us. Having said that, we know we have some challenges in terms of our use of agency workers, which is why we are reviewing our approach and the implementation of the guidance. We also recognise that employment status is a complex area and understandably managers do need clear guidance to appreciate and navigate the different rights and obligations we have to different categories of worker.’

**Tips for employers drawn from the De Montfort University case study:**

- Offer an induction programme to ensure that atypical workers are fully aware of regulations, working rules and practices.
- Communicate pay practices clearly to provide clarity over what – and why – people are paid.
- Provide managers with clear guidance on how to treat atypical workers. Don’t penalise zero-hours workers for refusing an offer of work or make it a requirement for them to accept work.
- Clearly define goals and service standards for atypical workers, and provide detailed guidance on what’s required in a range of situations.
- Train line managers and provide guidance on how to manage atypical workers in line with what’s set out in the contract.
- Use the same broad approach to managing contractors and other atypical workers as you would when managing a directly employed workforce.
- If the work is relatively predictable, consider if casual or temporary work can be consolidated into a permanent job.
- Share and check understanding of policies with local managers and ensure that they’re consistently applied.
- Offer line managers training or guidance on how to manage atypical workers in line with what’s set out in the contract.

**Read the guidance based on these case studies**

For detailed guidance on how to implement atypical working in your organisation, read our employers’ guide to atypical working: [cipd.co.uk/atypical-working-guide](http://cipd.co.uk/atypical-working-guide)